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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/019,873	08/26/2002	Raymond E. Ideker	UAB- 15602/22	8083
25006	7590	01/07/2005		
GIFFORD, KRASS, GROH, SPRINKLE ANDERSON & CITKOWSKI, PC 280 N OLD WOODARD AVE SUITE 400 BIRMINGHAM, MI 48009				
			EXAMINER JASTRZAB, JEFFREY R	
			ART UNIT 3762	PAPER NUMBER

DATE MAILED: 01/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

10/019,873

Applicant(s)

IDEKER ET AL.

Examiner

Jeffrey R. Jastrzab

Art Unit

3762

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 28 December 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 4 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
- ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ they raise the issue of new matter (see Note below);
- (c) ☒ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet.

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: 1-14 and 26-40.

Claim(s) withdrawn from consideration: 15-25 and 41-44.

8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☐ Other: _____

Jeffrey R. Jastrzab
Primary Examiner
Art Unit: 3762

Continuation of 2. NOTE: The amendment to overcome the 35 USC 112 2nd paragraph issues of record fails to correct the noted antecedent issue and would create several additional issues..

Continuation of 5. does NOT place the application in condition for allowance because: The proposed amendment does not serve to overcome the art rejection of record. Applicants argue the concept of a passive conductor, however this remains unclaimed as noted in the prior office action. In proposed Claim 1, the first conductor, although not stated as being connected to the stimulus generator, could be connected as currently claimed, which would read on the optional lead configurations of Bonner et al. noted previously. Also of note, even though not rejected as such, the first and second "contacts" are written broadly enough that they could be considered an electrode at a distal end of a lead and the plug contact at the proximal end of the lead since the phrase "in contact with myocardial tissue" could read on electrical contact, i.e. indirect contact, as well as direct physical contact .